

§§ 1753.12—1753.14 [Reserved]**Subpart B—Engineering Services**

SOURCE: 54 FR 3984, Jan. 27, 1989, unless otherwise noted. Redesignated at 55 FR 39397, Sept. 27, 1990.

§ 1753.15 General.

(a)(1) The standard RUS Loan Documents (See 7 CFR part 1758) contain provisions regarding engineering and architectural services performed by or for RUS telephone borrowers. This part implements certain of the provisions by setting forth the requirements and procedures to be followed by borrowers in selecting architects and engineers and obtaining architectural and engineering services by contract or by force account.

(2) Preloan architectural and engineering services may be provided by qualified personnel on the borrower's staff or by consultants. Neither the selection of a preloan architect or engineer by a borrower, nor the contractual arrangements with them, requires RUS approval.

(3) Postloan architectural and engineering services shall be obtained by borrowers from registered architects and engineers licensed in the State in which the facilities will be located, except where RUS has approved the borrower to provide these services by the force account method. When the extent of the proposed major or minor construction is such that the postloan engineering involved is within the capabilities of employees on the borrower's staff, the borrower may request RUS approval to provide such services. This method of providing engineering services is referred to as force account engineering. Refer to § 1753.17(c).

(4)(i) For major construction, services provided by architects and engineers not on the borrower's staff must be provided under Form 165, Architectural Services Contract—Telephone, or Form 217, Postloan Engineering Service Contract—Telephone. These contracts require RUS approval.

(ii) For minor construction, borrowers may use the contracts in § 1753.15(a)(4)(i) for postloan architectural or engineering services or any other form of contract, such as Form

245, Engineering Service Contract, Special Services—Telephone. RUS approval of contracts for postloan architectural or engineering services associated with minor construction, except for buildings covered in § 1753.15(a)(5), is not required.

(5) For buildings to be constructed with RUS funds, postloan architectural or engineering services shall be obtained if (1) the construction cost exceeds \$50,000 (prefab buildings using manufacturer's specifications approved by RUS are exempt from this requirement) or (2) soil or seismic conditions require special design considerations.

(b) For the purpose of this subpart B:

(1) *Contract*—The services contract between the borrower and its architect or engineer.

(2) *Force Account Engineering*—Any preloan or postloan engineering services performed by the borrower's staff.

(3) *Postloan engineering services*—The design, procurement, and inspection of construction to accomplish the objectives of a loan as stated in a LD approved by RUS.

(4) *Preloan engineering services*—The planning and design work performed in preparing a LD. This consists of helping the borrower determine the objectives for a loan, including consideration of RUS's requirements relating to the modernization plan, selecting the most effective and efficient methods of meeting loan objectives, and preparing the LD which describes the objectives and presents the method selected to meet them.

(c) Single copies of RUS forms and publications cited in this part are available free from Administrative Services Division, Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250-1500. These forms and publications may be reproduced.

(d)(1) All outside architects and engineers employed by RUS telephone borrowers shall have insurance coverage as required by 7 CFR part 1788.

(2) Borrowers shall ensure that their architects and engineers comply with the insurance requirements of their contracts. See 7 CFR 1788.54.

(e)(1) Borrowers shall make prompt payments to architects and engineers as required by the contract.

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(2) RUS shall not make loan funds available for late payment interest charges.

[54 FR 3984, Jan. 27, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, and amended at 58 FR 66259, Dec. 20, 1993; 59 FR 17464, Apr. 13, 1994]

§ 1753.16 Architectural services.

(a) The borrower shall be responsible for selecting an architect to perform the architectural services required in the design and construction of buildings.

(b)(1) When contracting for architectural services for major construction, the borrower shall use Form 165, except for unattended central office buildings, in which case either Form 165 or Form 217 shall be used. Except for preloan studies (see 7 CFR part 1737), the borrower shall incur no obligation for architectural services until RUS has approved this agreement. A borrower shall not enter into the architectural services contract for major construction before RUS has approved the borrower's LD.

(2) Reasonable modifications or additions to the terms and provisions in Form 165 may be made in order to obtain the specific services needed for a particular undertaking. Changes shall not be made that relieve the architect of any of the responsibilities set forth in the standard form. Borrowers should obtain assistance from their legal counsel to ensure that the contracts are properly prepared and executed.

(3) If the fee schedule has to be modified in order for the borrower to obtain adequate architectural services, the borrower shall obtain written RUS approval of the revised fee schedule prior to executing contracts.

(4) Three copies of Form 165 executed by the borrower and the architect shall be sent to the GFR to be forwarded to RUS for approval. If RUS approves the contract, one copy will be sent to the architect and one to the borrower.

(5) Loan funds will not be available to pay for the preliminary architectural services if a loan is not made for the construction project, or if the construction project is abandoned.

(6) Subpart D of 7 CFR part 1753 sets forth the requirements and procedures to be followed by borrowers construct-

ing central office, warehouse, and garage buildings with RUS loan funds.

(c)(1) RUS telephone borrowers shall obtain two copies of a completed Form 284, Final Statement of Architect's Fees, when all services and obligations required under the architectural services contract have been completed. All fees shown on the statement shall be supported by detailed information where appropriate. For example: out-of-pocket expense, cost plus, and per diem types of compensation shall be listed separately with labor, transportation, etc., itemized for each service involving these types of compensation.

(2) If Form 284 and supporting data are satisfactory, the borrower shall approve the statement, sign both copies, and send one copy to the GFR.

(3) Upon approval of Form 284 by RUS, the borrower shall promptly make final payment to the architect.

[54 FR 3984, Jan. 27, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, and amended at 59 FR 43717, Aug. 25, 1994]

§ 1753.17 Engineering services.

(a)(1) All engineering services required by a borrower to support its application for a loan shall be rendered by a qualified engineer selected by the borrower or by qualified employees on the borrower's staff. The selection of the preloan engineer, the form of preloan engineering service contract, and the contract itself, are not subject to RUS approval. Borrowers, however, should discuss their proposed method of obtaining preloan engineering services with the GFR before proceeding with any arrangements.

(2) Form 835, Preloan Engineering Service Contract, Telephone System Design, is a suggested form of preloan engineering service contract. While use of this form of contract is not required, it will be helpful in determining the tasks to be performed. Any form of contract used shall specify that preloan engineering services conform to RUS requirements for preloan studies. See subpart D of 7 CFR part 1737.

(b)(1) *Major construction.* (i) Three copies of Form 217 executed by the borrower and the engineer shall be sent to the GFR to forward to RUS for approval. The engineer's estimate of the